

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 2156 of 2007(F)

PETITIONER:

G.HARIKUMAR, S/O.N.GOPALAN NAIR,
AGED 53 YEARS, BHATHIVILASAM, POLICE QUARTERS,
HOUSE NO.90, VAZHUTHACAUD, THYCADU P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.T.RAJASEKHARAN NAIR
SRI.S.MANIKANTAN NAIR

RESPONDENTS:

1. THE ADDITIONAL DIRECTOR GENERAL
OF POLICE (INTELLIGENCE), HEAD QUARTERS,
SPECIAL BRANCH, C.I.D., THIRUVANANTHAPURAM.
2. THE SPECIAL DEPUTY TAHSILDAR (RR),
K.S.F.E.LTD., REGIONAL OFFICE,
SILVER JUBILEE BUILDINGS, STATUE,
THIRUVANANTHAPURAM.
3. S.KARUNAKARAN NAIR,
ASWATHY, GOVINDAMANGALAM P.O.,
OORUTTAMBALAM P.O., THIRUVANANTHAPURAM.

ADDL. RESPONDENT:

4. THE KERALA STATE FINANCIAL ENTERPRISES LTD.,
REP. BY ITS MANAGING DIRECTOR,
HEAD OFFICE, THRISSUR.

(ADDL. RESPONDENT IS IMPLEADED AS PER ORDER
DT.1.2.2007 IN I.A. NO.1418/2007.)

R1&2 BY G.P. SRI.BASANT BALAJI
SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR
R4 BY SRI.M.SASINDRAN, SC, K.S.F.E., LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE PHOTOCOPY OF ORDER IN COMPLAINT NO.76/2004 PASSED BY THE
UPALOKAYUKTA.

P2: TRUE PHOTOCOPY OF PROHIBITORY ORDER ISSUED BY R2 TO THE OFFICE OF R1.

P3: TRUE PHOTOCOPY OF REPRESENTATION SUBMITTED BY PETITIONER TO R1.

P4: TRUE PHOTOCOPY OF COMMUNICATION DT.15.7.2005 ISSUED BY R1 TO R2.

P5: TRUE PHOTOCOPY OF COMMUNICATION DT.11.12.2006 ISSUED BY R1.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....
W.P.(C) No.2156 of 2007
.....

Dated this the 27th day of June, 2007.

JUDGMENT

The petitioner is admittedly a surety for the loan availed by another person who is not made a respondent in the W.P. Another surety is third respondent and a third surety committed suicide. Challenge is against proposed attachment of petitioner's salary in recovery proceedings. Even though counsel for the petitioner contended that other sureties are not proceeded against, counsel for KSFE submitted that an amount of Rs.35,000/- is already recovered from third respondent. In the circumstances, petitioner's allegation is incorrect. Moreover, being a surety, petitioner is liable for payment of arrears. So far as the ceiling on attachment of salary is concerned, Section 80 of the Revenue Recovery Act incorporates Section 60(1)(i) of CPC which means recovery from salary should be subject to limit provided therein. The W.P. is therefore disposed of directing first respondent to attach petitioner's salary and make payment to second respondent in terms of request issued by KSFE but subject to limit provided under Section 60(1)(i) of CPC. Recovery can be continued against the principal debtor and other sureties also.

C.N.RAMACHANDRAN NAIR
Judge

pms